THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.23939 of 2006

17.11.2006

Between:

B. Narayana and others

..Petitioners

And

The District Collector, Nizamabad. and others.

..Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.23939 of 2006

ORDER:

The petitioners herein were assigned land admeasuring about Acs.2.00 each in survey No.683. The Additional Revenue Inspector, Makloor and the Panchayat Secretary, Borgaon (K) sent a report to the fourth respondent-Mandal Revenue Officer to the effect that the petitioners are not cultivating the land, that they kept the land fallow and that they are removing soil/earth/moram by digging deep pits in the land. Therefore, the fourth respondent initiated action under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 ("the Act", for brevity), and when the petitioners allegedly did not send any response, passed the impugned order, bearing No.D/5644/2005, dated 12.05.2006, ordering resumption of the land in survey No.683 admeasuring Acs.28.33 guntas of Borgaon (K) Village, assigned to the petitioners and twenty others in Borgaon (K) Village, in favour of the Government. Aggrieved by the same, the present Writ Petition is filed.

Learned counsel for the petitioners submits that when an allegation is made that the land is not brought into cultivation and the same is being used for removing earth/moram by digging deep pits, the Act has no application. Therefore, the order passed by the Mandal Revenue Officer is without jurisdiction and void. Opposing the Writ Petition, the learned Assistant Government Pleader for Revenue (Assignment) submits that the petitioners failed to cultivate the land and used the same for non-agricultural purposes, and therefore, the assignment can be cancelled. He, however, does not dispute that if the assignment is cancelled, the Act has no application and the proper action has to be taken under the Board Standing Orders.

As the impugned order is passed without jurisdiction, the same is liable to be set aside, and accordingly, it is set aside insofar as the petitioners are concerned. The matter is remitted to the fourth respondent with a direction to prevent the digging of deep pits in the land in survey No.683 and also take appropriate action against all those assignees who dug pits. The fourth respondent is also directed to conduct an enquiry, if necessary personal inspection and if the petitioners are not cultivating the land or failed to bring the land into cultivation within three years from the date of assignment, he may take appropriate action after giving notice to the petitioners.

The Writ Petition, with the above directions, is accordingly

disposed of. No costs.

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(V.V.S.RAO, J)

17.11.2006

GJ